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BEFORE THE FEDERAL ELECTION COMMISSION

2010 NOV -3 A 9:54

In the Matter of)
MUR 6329) CASE CLOSURE UNDER THE
Michael Grimm) ENFORCEMENT PRIORITY SYSTEM
Michael Grimm for Congress)
and Wayne T. Muratore, as treasurer)

SENSITIVE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are

forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6329 as a low-rated matter.

In this matter, the complainant, Stephen Clinton, President of the Island Democratic Civic Committee in Staten Island, New York, alleges that Michael Grimm¹ and his campaign committee, Michael Grimm for Congress and Wayne T. Muratore, in his official capacity as treasurer ("the Committee"), violated 2 U.S.C. § 441d and the corresponding Commission regulations by failing to include disclaimers on the campaign's lawn signs. Enclosed with the complaint is a photocopy of a campaign sign, depicting what appears to be Mr. Grimm's campaign logo, the name "Michael Grimm" and the word "Congress." The sign does not include a disclaimer stating that the Committee had paid for it, as required by 2 U.S.C. § 441d(a)(1) and 11 C.F.R. § 110.11.

Committee treasurer Wayne Muratore and campaign manager Aaron Ringel filed separate responses to the complaint. According to Mr. Muratore, when Mr. Grimm became

¹ Michael Grimm was a candidate in the 2010 election for U.S. Representative from the 13th Congressional District in New York

1 aware that the lawn signs did not have appropriate disclaimers, the candidate immediately had
2 his staff prepare labels with the proper disclaimers, which were to be affixed to the defective
3 lawn signs. Mr. Muratore furthers states that he has requested that all printed material contain
4 the appropriate disclaimers and that all campaign material be approved by the Committee's
5 campaign consultants, and notes that that he delayed the mailing of a "specific endorsement
6 letter" until the consultants assured him that it "met both the letter and the spirit of the
7 [disclaimer provisions of the] law."

8 In his response, Aaron Ringel asserts that the Grimm campaign is aware of the
9 statutory requirements to include disclaimers on campaign communications. Although
10 Mr. Ringel acknowledges that the first batch of lawn signs initially failed to include
11 disclaimers disclosing that the Committee had paid for them, he maintains that the
12 Committee's "solution" was to "print and place stickers containing the 'paid for' language on
13 every lawn sign that was missing" the requisite disclaimer. Enclosed with Mr. Ringel's
14 response are photocopies of a campaign sign with a "Paid For By Grimm for Congress"
15 disclaimer and a roll of stickers bearing the phrase "by Grimm for Congress," which appears to
16 be preceded by the words "paid for."

17 Campaign yard signs are a type of communication that require a written disclaimer.
18 See 2 U.S.C. § 441d(a)(1); 11 C.F.R. §§ 100.26 and 110.11. The Committee has
19 acknowledged that some of its campaign signs did not have the requisite disclaimer. However,
20 in light of the Committee's remedial action, and in furtherance of the Commission's priorities
21 and resources, relative to other matters pending on the Enforcement docket, the Office of
22 General Counsel believes that the Commission should exercise its prosecutorial discretion and
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dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, this Office intends on reminding Michael Grimm for Congress and Wayne T. Muratore, in his official capacity as treasurer, of the disclaimer requirements under 2 U.S.C. § 441d(a)(1) and 11 C.F.R. § 110.11.

RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6329, close the file, and approve the appropriate letters. Additionally, this Office recommends reminding Michael Grimm for Congress and Wayne T. Muratore, in his official capacity as treasurer, of the disclaimer requirements under 2 U.S.C. § 441d(a)(1) and 11 C.F.R. § 110.11.

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11/3/10
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